

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4)
5 MUR 6878) CASE CLOSURE UNDER THE
6 Dewhurst for Texas) ENFORCEMENT PRIORITY
7 Dr. Carlos R. Hamilton, Jr., as treasurer) SYSTEM
8)
9)

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11 **GENERAL COUNSEL'S REPORT**

12 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a
13 basis to allocate its resources and decide which matters to pursue. These criteria include, without
14 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into
15 account both the type of activity and the amount in violation; (2) the apparent impact the alleged
16 violation may have had on the electoral process; (3) the complexity of the legal issues raised in the
17 matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as
18 amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing
19 relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial
20 discretion to dismiss cases under certain circumstances or, where the record indicates that no
21 violation of the Act has occurred, to make no reason to believe findings. The Office of General
22 Counsel has scored MUR 6878 as a relatively low-rated matter and has determined that it should not
23 be referred to the Alternative Dispute Resolution Office.¹

24 The Complaint alleges that Dewhurst for Texas and Dr. Carlos R. Hamilton, Jr., in his official
25 capacity as treasurer (collectively the "Committee") violated the Act by failing to report debt in
26 disclosure reports filed with the Commission.² Specifically, Brad Todd on behalf of the
27 Complainant, OnMessage, Inc., alleges that the Committee failed to disclose \$116,548.90 owed to

¹ The EPS rating information is as follows:
Dewhurst for Texas filed: October 29, 2014.

Complaint filed: October 6, 2014. Response from

² Compl. at 3 (October 6, 2014).

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1 them for services provided during Dewhurst's bid for Senate in 2012 on its 2014 July Quarterly
2 report.³ In its response, the Committee acknowledges the debt and asserts that it did disclose it on its
3 2014 July Quarterly report, but maintains that because of an administrative error, only one side of its
4 two-sided report was published to the Commission's online database and, therefore, the debt in
5 question was not displayed on its report.⁴ When it learned that a portion of its report was not publicly
6 disclosed, the Committee contacted the Commission's Reports Analysis Division ("RAD") to correct
7 the report on the Commission's website.⁵ The Committee filed an amended 2014 July Quarterly
8 report that included the outstanding debt owed to OnMessage, Inc., as well as other missing
9 information, on October 31, 2014.⁶

10 Committee treasurers are required to file reports of receipts and disbursements in accordance
11 with the provisions of the Act.⁷ The reports must include the amount and nature of outstanding debts
12 and obligations owed by or to the political committee.⁸ The Commission's regulations specify, in
13 pertinent part, that a debt or obligation exceeding \$500 must be disclosed in the report that covers the
14 date on which the debt or obligation is incurred and must be continuously reported until
15 extinguished.⁹

³ *Id.* The Committee disclosed this debt in its earlier 2014 April Quarterly report, filed with the Commission on April 10, 2014.

⁴ Resp. at 1 (October 29, 2014).

⁵ *Id.*

⁶ 2014 July Quarterly report, amended (October 31, 2014).

⁷ 52 U.S.C. § 30104(a)(1), 11 C.F.R. § 104.1(a).

⁸ 52 U.S.C. § 30104(b)(8); 11 C.F.R. § 104.3(d).

⁹ See 11 C.F.R. § 104.11.

1 The Committee complied with the requirements of the Act and the Commission's regulations
2 when it disclosed its obligation to OnMessage, Inc., in its 2014 July Quarterly report. According to
3 RAD, the Office of the Secretary of the Senate appears to have inadvertently failed to scan the odd-
4 numbered pages of the Committee's original 2014 July Quarterly report for publication to the
5 Commission's website during the initial processing of the report. Through no fault of the
6 Committee, this administrative error caused the page of the report disclosing this debt, as well as
7 other information, to be excluded from the Commission's database. When the Committee learned of
8 the error, it immediately contacted RAD to determine the best way to resolve this issue and amended
9 its report so that the missing information was included on the Commission's website.¹⁰

10 Accordingly, we recommend that the Commission find no reason to believe that Dewhurst for
11 Texas and Dr. Carlos L. Hamilton, Jr., in his official capacity as treasurer violated 52 U.S.C.
12 § 30104(b)(8) and 11 C.F.R. § 104.3(d).¹¹

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14 **RECOMMENDATIONS**
15

- 16 1. Find no reason to believe that Dewhurst for Texas and Dr. Carlos L. Hamilton, Jr., in his
17 official capacity as treasurer violated 52 U.S.C. § 30104(b)(8) and 11 C.F.R. § 104.3(d);
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19 2. Approve the Factual and Legal Analysis;
20
21 3. Approve the appropriate letters; and

¹⁰ On October 10, 2014, the Committee sent a letter to RAD inquiring as to the status of this matter. The letter also addressed two additional debts that are unrelated to this matter. In one instance, the Committee has corrected its reports to remove a debt that was erroneously disclosed as owed to Dewhurst's Texas state committee. RAD is also working with the Committee to properly disclose a debt owed to a bankrupt entity, Strategic Fundraising, Inc.

¹¹ The Committee was a party in ADR 760 and ADR 764, matters unrelated to MUR 6878. The Committee has negotiated a settlement agreement in those matters.


4. Close the file.


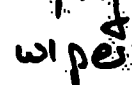
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